

REMARKS

Claims 57-66 and 68-78 are now pending in the application. Claims 67 and 79-90 are cancelled herein, without prejudice, and Claims 1-56 have previously been cancelled, without prejudice. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

CLAIM OBJECTIONS

Claims 57, 68 and 79 are objected to for certain informalities. Claim 79 is cancelled herein without prejudice. Claims 57 and 68 have been amended pursuant to the Examiner's suggestions and/or to remove the indicated language from the claim. Therefore, Applicants respectfully request reconsideration and withdrawal of this objection.

REJECTION UNDER 35 U.S.C. § 103 (SMITH ET AL. AND ANDERSON)

Claims 57, 58, 60-62, 64-67, 79-81, 83-85 and 87-90 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith et al. (U.S. Pat. No. 6,381,811) in view of Anderson (U.S. Pat. No. 5,251,467). Claims 67 and 79-90 have been cancelled herein, without prejudice. Applicants respectfully traverse this rejection with respect to the remaining claims.

The instant application has a priority date of March 27, 2000, based upon U.S. Provisional Application 60/192,375 (hereinafter "Applicants' Provisional"). Smith et al. claims priority to two provisional applications filed on April 26, 2000 and September 20, 2000, respectively. Applicants believe that Applicants' Provisional provides full support for each of the claim elements recited in at least Claims 57, 62, 65 and 66. Thus, Applicants' priority date of March 27, 2000 is before the earliest filing date (i.e., April 26,

2000) of Smith et al., at least as to the claims identified above. Accordingly, even if the disclosure of Smith et al. cited in this rejection is entitled to the April 26, 2000 filing date, Smith et al. is not prior art with respect to these claims of the instant application.

Since the disclosure of Smith et al. as cited in this Rejection is not prior art to at least Claims 57, 62, 65 and 66 of the instant application, Applicants respectfully assert that the remaining reference (Anderson) cited in this rejection fails to disclose or suggest many of the features recited in these claims. This is evident from the rejection itself. Accordingly, Applicants respectfully assert that each of these claims is patentable over this rejection as to each of these claims.

With respect to dependent Claim 58, it recites "a distal edge of the portion which is twisted of one of the two spring members being substantially parallel to a corresponding distal edge of the portion which is twisted of the other of the two spring members." In contrast, the distal edges of any spring members of Anderson are not disclosed or suggested as being twisted to be parallel. Such a parallel orientation of the distal edges of the twisted spring members is advantageous, e.g., in providing a particularly good ratio between the reduced insertion force and the increased removal force as discussed in the instant application. Accordingly, Applicants respectfully assert that Claim 58 is patentable over this rejection (even assuming *arguendo* that Smith et al. is prior art as to these claims).

With respect to dependent Claims 60 and 64 (and Claim 61 which depends from Claim 60), they each recite that the spring member is twisted about an axis "that is not perpendicular" to a main axis of the body portion. This main axis is identified in the drawings, e.g., by reference numeral 42. The twisting for one of the spring members

occurs about this non-perpendicular axis "in a first direction that is one of a generally clockwise direction and a generally counterclockwise direction." In addition, "at least a portion of the other spring member is twisted about another axis that is not perpendicular to the main axis in a different direction that is the other of the generally clockwise direction and the generally counterclockwise direction." In contrast, Anderson only discloses twisting portions of spring members in a same (generally clockwise) direction. Furthermore, the cited references provide no suggestion or motivation to twist the different spring members in different (clockwise/counterclockwise) directions. Consequently, Applicants respectfully assert that these claims are also patentable over this rejection (even assuming *arguendo* that Smith et al. is prior art as to these claims).

REJECTION UNDER 35 U.S.C. § 103 (MURRAY AND ANDERSON)

Claims 57, 63-66, 68, 73-77, 79, 87, 89 and 90 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Murray (U.S. Patent. No. 4,300,865) in view of Anderson (U.S. Pat. No. 5,251,467). Claims 79-90 have been cancelled herein, without prejudice. Applicants respectfully traverse this rejection with respect to the remaining claims.

Each of independent Claims 57 and 68 recite a spring member with "a plurality of teeth" or "a plurality of peaks and valleys", respectively. This rejection argues that one skilled in the art would be motivated to modify the edges 22c ending with a single extending prong 26 of Murray to have a plurality of peaks and valleys or teeth as disclosed in Anderson to allow for thickness variations. In contrast, however, the arrangement of Murray is already adapted to allow for thickness variations. This is stated in Murray, for example, at col. 5, lines 11-15. Thus, allowing for thickness

variations does not provide a motivation to modify Murray as suggested in this Rejection.

Moreover, the fairly long straight cutting edges 22c of Murray are key to the functioning of the fastener. Specifically, although the prongs provide some resistance to removal, the long straight edge of Murray being driven into the edge of the opening is the prime factor in securing the fastener. This is explained in Murray, e.g., at col. 3, lines 21-29. The primary function of the extending prongs of Murray appears to be to deflect the wings to a maximum degree to cause the long straight edges 22c to be driven into the edge of the opening with appreciable force. See, e.g., col.3 at lines 16-20.

Consequently, Applicants are unable to understand why one skilled in the art would be motivated to replace the long straight edge that is so critical to performance of the fastener with a plurality of peaks and valleys or teeth. Adding a plurality teeth as seen in Anderson will reduce the amount of force generated against the opening by the Murray fastener, since multiple teeth will lessen the spring back distance, thereby interfering with the ability to generate an impact with appreciable force. Furthermore adding a plurality of teeth as seen in Anderson will only weaken the edge of Murray that would contact against the opening so it will likely not be driven into the edge of the opening as well. Again, since this is important to the functioning of the Murray fastener, it is unclear why one skilled in the art would make such a modification.

For at least these reasons, Applicants respectfully assert that their invention as defined by independent Claims 57 and 68 is not disclosed or suggested by Murray in view of Anderson. Each of the remaining claims (Claims 63-66 and 73-77) depend,

either directly or indirectly, from one of the independent claims discussed above. Accordingly, these claims are likewise patentable for at least the reasons discussed above.

REJECTION UNDER 35 U.S.C. § 103 (TINNERMAN AND ANDERSON)

Claims 57-90 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tinnerman (U.S. Pat. No. 2,198,186) in view of Anderson (U.S. Pat. No. 5,251,467). Claims 67 and 79-90 have been cancelled herein, without prejudice. Applicants respectfully traverse this rejection with respect to the remaining claims.

Independent Claim 57 recites "a body portion having an insertion end and a flange extending from an end of the body portion opposite to the insertion end" and "at least one spring member extending outwardly from the insertion end of the body portion." Similarly, Independent Claim 68 recites "a body portion having an insertion end and a flange extending from an end of the body portion opposite to the insertion end" and "at least one spring member extending from the body portion."

In contrast, Tinnerman discloses no spring member extending from the body portion as recited in each of these claims. Specifically, this Rejection equates the features identified by reference numerals 9, 10, 11, 30 and 31 as corresponding to the insertion end of the "body portion" of Applicants' claims. Additionally, this Rejection equates the features identified by reference numerals 12, 13, 32 and 33 as corresponding to the extending spring members. Although these later features arguably extend from the identified body portion, they are not "spring members." In fact, there is no disclosure or suggestion in Tinnerman that the shoulders 12, 13, 32 and 33 perform any sort of spring function.

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These members are allowed to pass through the opening as a result of spring pressure elements 24, 25 and the inherent resiliency of the shank elements 9, 10, 11, 30 and 31. See, e.g., Tinnerman at col. 5 (on page 3) at lines 24-34. Thus, at best, these shank elements or the spring pressure elements could be considered spring members. The shank elements 9, 10, 11, 30 and 31, however, are part of the claimed body portion, and therefore, do not extend from the body portion. Further, the spring pressure elements 24 and 25 could be interpreted as extending from the body portion, but they don't extend from the insertion end of the body portion as claimed. Moreover, Applicants cannot understand why one skilled in the art would modify the features of Tinnerman identified by reference numeral 12, 13, 32 and 33 to be the claimed "spring members" since any desired spring functionality is provided by other components as discussed above. Thus, the cited references provide no suggestion or motivation to provide extending spring members.

Accordingly, Applicants respectfully assert that independent Claims 57 and 68 are patentable over this rejection. Each of the remaining claims (Claims 58-66 and 69-78) depend, either directly or indirectly, from one of the independent claims discussed above. Accordingly, these claims are likewise patentable for at least the reasons discussed above.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office

Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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